

13 JUL 2010



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The Law Offices of James C Weseman  
Suite 1600  
401 West A Street  
San Diego CA 92101

In re Application of	:	
Van Dongen et al.	:	
Application No.: 10/531,106	:	DECISION
PCT No.: PCT/NL03/00690	:	
Int. Filing Date: 13 October 2003	:	ON
Priority Date: 11 October 2002	:	
Attorney Docket No.: P00280US1	:	PETITION
For: Nucleic Acid Amplification Primers	:	
For PCT-Based Clonality Studies	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 30 April 2010.

### **BACKGROUND**

This international application was filed on 13 October 2003, claimed an earlier priority date of 11 October 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 April 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 April 2005. Applicants filed *inter alia* the basic national fee on 11 April 2005.

On 01 September 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and \$1055.00 in additional claim fees.

On 03 March 2006, applicants filed a response, including a declaration.

On 17 July 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants.

On 19 October 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, requiring an acceptable CRF of the sequence listing and a statement that its content is identical to the written sequence listing and, where applicable, contains no new matter.

On 14 July 2008, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the "notification of Missing Requirements" (sic) mailed on 19 October 2007.

### **DISCUSSION**

Petitioner requests revival pursuant to 37 CFR 1.137(b) and provides a discussion of asserted reasons for revival.

Review of the record reveals that the declaration filed on 03 March 2006 was not acceptable for purposes of compliance with 37 CFR 1.497(a) and (b) because it appears to have been compiled from separately-signed sheets. MPEP 605.04(a) explains (in part) that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. >Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration (by combining the signature pages).<

Under this policy, it was not appropriate for the declaration filed on 03 March 2006 to be accepted. Accordingly, the Notice of Acceptance mailed on 17 July 2006 was issued in error, and it is hereby **VACATED**.

Further review reveals that the Notification of Defective Response mailed on 19 October 2007 did not address the defective declaration, but it did set new requirements with respect to the sequence listing which had not been mentioned in the Notification of Missing Requirements mailed on 01 September 2005. The mailing of this Notification of Defective Response was not appropriate under these circumstances; accordingly, it is hereby **VACATED**. Consequently, the holding of abandonment is hereby **WITHDRAWN** under 37 CFR 1.181.

Applicant is required to comply with the requirements not yet satisfied (i.e., provide an oath or declaration compliant with 37 CFR 1.497(a) and (b), and pay the required claims fees). An acceptable CRF has already been filed. In view of the procedural history of this particular application, it would be appropriate to mail a new Notification of Missing Requirements requiring said response.

#### **DECISION**

The petition is **GRANTED** under 37 CFR 1.181, to the extent discussed herein.

This application is being returned to the Office of Patent Application Processing. The electronic records of the USPTO will be updated to reflect its status as pending (not abandoned). A new Notification of Missing Requirements will be prepared and mailed, requiring that applicants provide an oath or declaration compliant with 37 CFR 1.497(a) and (b), and pay the required claims fees.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283